

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**vs.**

**ANTONIO RIGBERTO FRAUSTO,**

**Defendant.**

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**8:08CR263**

**ORDER**

This matter is before the court on the motion to continue by defendant Antonio Rigberto Frausto (Frausto) (Filing No. 24). Frausto seeks a continuance of the trial of this matter which is scheduled for November 24, 2008. Frausto has filed an affidavit wherein Frausto consents to the motion and acknowledges he understands the additional time may be excludable time for the purposes of the Speedy Trial Act (Filing No. 25). Frausto's counsel represents that government's counsel has no objection to the motion. Upon consideration, the motion will be granted.

**IT IS ORDERED:**

1. Frausto's motion to continue trial (Filing No. 24) is granted as set forth below.
2. Trial of this matter is re-scheduled for **January 26, 2009**, before Chief Judge Joseph F. Bataillon and a jury. The ends of justice have been served by granting such motion and outweigh the interests of the public and the defendant in a speedy trial. The additional **time** arising as a result of the granting of the motion, i.e., the time between **November 17, 2008 and January 26, 2009**, shall be deemed **excludable** time in any computation of time under the requirement of the Speedy Trial Act for the reason that defendant's counsel requires additional time to adequately prepare the case. The failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(8)(A) & (B).

DATED this 17th day of November, 2008.

BY THE COURT:

s/Thomas D. Thalken  
United States Magistrate Judge